



MINUTES OF THE REGULAR MEETING
OF THE PLANNING COMMISSION
CITY COMMISSION CHAMBERS, CITY HALL
THURSDAY, FEBRUARY 20, 2014 4:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, February 20, 2014, in the Commission Chambers at City Hall. Chairman James Argento called the meeting to order at 4:30 p.m. The following Commission members were present:

James Argento
Clell Coleman
Charles Townsend
Ted Bowersox
Donald Lukich
Agnes Berry
Frazier J. Marshall

City staff that was present included Bill Wiley, Community Development Director, Dan Miller, Senior Planner, and Dianne Pacewicz, Administrative Assistant II. City Attorney Fred Morrison was also present.

The meeting opened with an invocation given by Commissioner Frazier J. Marshall and the Pledge of Allegiance to the Flag.

Bill Wiley, Community Development Director, informed the audience of the rules of participation and the need to sign the speaker's registry. He also informed Commissioners and the audience of the City Commission meeting dates tentatively scheduled.

Dianne Pacewicz swore in staff as well as anyone wishing to speak.

MINUTES OF PLANNING & ZONING COMMISSION MEETING FOR JANUARY 16, 2014.

Commissioner Donald Lukich moved to APPROVE the minutes from the JANUARY 16, 2014 meeting. Commissioner Agnes Berry SECONDED the motion, which was PASSED by a vote of 7 to 0.

Chairman Argento decided to move the first New Business case to the first item for discussion.

NEW BUSINESS

1. PUBLIC HEARING CASE # AMDT-13-141 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE

AN ORDINANCE AMENDING THE CODE OF ORDINANCES CHAPTER 25 BY ADDING SECTION 164 - NONCONFORMING DEVELOPED PROPERTIES TO REQUIRE COMPLIANCE FOR LANDSCAPING AND SIGNAGE FOR ABANDONED PROPERTIES; AND AMENDING SUBSECTION 25-325 NONCONFORMING LANDSCAPING TO REQUIRE COMPLIANCE FOR ABANDONED

PROPERTIES; REPEALING CONFLICTING ORDINANCES;
PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE
DATE. (CITY COMMISSION DATES - 1st READING ON MARCH 10TH,
2014 AND A 2ND READING ON MARCH 24TH, 2014)

Bill Wiley entered the exhibits into record.

There were no substantive comments received from the departments.

The Planning & Zoning staff recommended the approval of the request for the following reasons:

Summary:

The City Commission has indicated in the past that it would like the City to have the ability to enhance nonconforming sites, and to require such properties to come into compliance with current zoning requirements to include site signage and landscaping for the commercial corridor areas along US 27 and 441. The intent of this code provision is to provide a tool to enhance the aesthetics of our corridors to promote development of these areas. To that end, staff has developed this section to address these concerns.

Staff recommends the addition of Section 25-164 “*Nonconforming properties*” which allows the continuation of nonconformities until such time as they have been vacant or otherwise abandoned for a one (1) year period. The ordinance allows for a one (1) time expansion of operating non-conforming structures, criteria for continuation of nonconforming uses, the restoration and repair of nonconformities, and termination of nonconformities. Section 25-325 deals in a similar manner with non-conforming landscaping, requiring upgrades to landscaping when expanding a structure or parking area by more than 25%, when changing the use of a structure, and allowing an exemption to upgrading the landscape in case of natural disaster.

Action Requested:

Vote to approve the referenced amendments to the Code of Ordinances Chapter 25 Land Development Code as proposed by staff and forward to the City Commission for consideration.

Bill Wiley explained following in the Ordinance.

ARTICLE IV. ZONING DISTRICT CODE

Sec. 25-164 - Nonconforming developed properties.

- (a) *Continuation of use.* A use, existing developed site, building or structure, lawfully in existence at the effective date of the article, which was nonconforming at the time this section was enacted, or made nonconforming by the passage of this section or any applicable amendment thereto may be continued except as otherwise provided in this division.
- (b) *Regulation of nonconforming uses, sites and structures.* No existing developed site, building or premises which does not conform in one or more ways to any requirement of this code shall not be redeveloped, enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming site or use, or when required to do so by law, or as follows:
 - (1) *Restoration.* Any nonconforming site, sign or structure which has less than fifty (50) percent of its previous existing site or floor area made unsafe or unusable may be restored, reconstructed, or used as before, provided that the site or floor area of such use, building or structure shall not exceed the site or floor area which existed prior to such damage. All repairs shall be completed within six (6) months after damages occur or such site or structure shall not be rebuilt unless brought into compliance with this code.

- (2) *Repairs.* Normal maintenance, repairs and incidental alteration of a site or structure which does not comply with this code or which contains a nonconforming use is permitted, provided it does not extend the area or volume of the structure or space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability; provided, however, that no structural alterations shall be made which would increase the number of dwelling units, or the size of the nonconforming structure.
 - (3) *Expansion.* Nonconforming uses, sites and structures which exist at the adoption of this article may apply for one (1) expansion with site plan approval. Such expansion must not exceed twenty-five (25) percent of the site or total floor area. Such expansion must not create additional nonconformities, objectionable, undesirable or out of character nuisances in the zoning district where located.
- (c) *Termination of nonconforming uses and structures.*
 - (1) *Abandonment.* A nonconforming sign, site or use which is not used or which is vacant (not operated without interruption) for a period of one year, or the change of use to a more restricted use for any period of time, shall be considered terminated and/or abandoned thereof and such nonconforming sign, site or use shall not thereafter be revived without being brought into compliance with this section.
 - (2) *Partial destruction.* When fifty (50) percent or more of the existing floor or site area of a nonconforming structure or site is destroyed by fire or other casualty or act of God and as a result becomes unsafe or unusable, the sign, site or use of such property, as a nonconforming use of the property, shall thereafter be terminated.
 - (3) *Termination or required modification of certain uses.* Each of the nonconforming properties, structures, signs or uses specified is deemed sufficiently objectionable, undesirable and out of character in the zoning district in which such use or structure is located as to depreciate the value of the property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such nonconforming property, use or structure, once determined to be terminated and/or abandoned under this section, shall be required to comply with requirements per this section in the event of any change in use.
 - (4) *Site design requirements* of nonconforming properties required to comply with this section shall include landscaping along the front property boundary adjacent to the street corridor and adjacent to the building façade visible to the corridor. In addition, existing pole and building signs shall be brought into compliance with monument sign and building sign requirements for the property visible to the corridor. Adjustments of site improvements required by this section shall be determined by the Community Development Director as related to the overall corridor design improvements.

Mr. Wiley stated that this code deals with the building, signage, and use. We do have landscape and sign grants available for these areas.

Commissioner Bowersox asked if we can require them to be in compliance when the building is occupied for landscaping at this time. He stated that if they are not occupied and abandoned then we probably won't be able to get them to do anything. Mr. Wiley answered that for the buildings that are occupied, they were approved under whatever conditions were when they were approved. We typically cannot go back as long as they continue. Commission Bowersox asked what if they don't mow their yard. Mr. Wiley stated that we can

use Code Enforcement to make sure that they do the maintenance that they need to do. If it is a change in use, they are still required to comply with the code. We are missing opportunities to have properties brought into compliance when new businesses start.

Commissioner Lukich asked if Code Enforcement rules would apply when a new business started. Mr. Wiley answered that yes they would, but we don't currently have these rules. We can't go after them to do something that they weren't required to do.

Attorney Morrison stated that what the current ordinance is addressing is the non-conforming use. If you have a commercial enterprise in a residential district, it's not conforming as a use. If that is abandoned for 18 months, then you can't put a commercial use back in there. But if you have a use that is conforming in a commercial district and has been vacant for one year, but the site is not conforming (ie. landscaping and sign code), they will have to bring the site into compliance. What this tries to do is expand the ability of the City and take these old sites that do not have landscaping and are out of compliance with the existing codes, and bring them into compliance if they are abandoned for a year.

Mr. Wiley stated that this amends that section of the sign code for building abandoned for one year, and a new business goes in, then they have to change the sign. Existing businesses that are operating can wait until 2021 to change their sign.

Commissioner Marshall asked if the sign grants affect new and old businesses. Mr. Wiley answered that the Sign Grants are for the CRA districts. We do not have a sign grant in the Carver Heights CRA district. It is for people who want to bring existing pole signs down to a monument sign for most of the 441 and 27 areas. It can be for a new business that has a pole sign. Attorney Morrison stated that if you take a vacant piece of property and build a brand new business on it, you are not eligible for the grant. If you take a piece of property that has been there, if it hasn't been a year, and someone wants to put a nice sign there, you can get the grant.

Commissioner Coleman asked if it affects the downtown area. Mr. Wiley answered that it will not affect the downtown area. Attorney Morrison stated that there is a special code for downtown. Mr. Wiley stated that he will add to this amendment that the CBD are will be exempt.

This was the end of the discussion and the voting then took place.

Commissioner Donald Lukich made a motion to APPROVE case # AMDT-13-141 – AMENDING CHAPTER 25 – LAND DEVELOPMENT CODE. Commissioner Ted Bowersox SECONDED the motion which, PASSED by a unanimous voice vote of 7 to 0.

DISCUSSION ITEM

There were no discussion items.

ANNOUNCEMENTS

The next scheduled meeting date is March 20, 2014.

The meeting adjourned at 5:58 p.m.

James Argento, Chairperson

Clell Coleman, Vice Chairperson

Dianne Pacewicz, Administrative Assistant II